IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 31701 of 2007(Y)

CMA.53/2005 of PRL.SUB COURT,IRINJALAKUDA
.....

PETITIONER:

RADHAKRISHNAN, AGED 43 YEARS,
S/O.MADASSERY BALAKRISHNAN, MADAYIKONAM VILLAGE
& DESOM, MUKUNDAPURAM TALUK, NOW RESIDING AT
KAIPAMANGALAM VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENT:

THE SECRETARY,
PORATHISSERY GRAMA PANCHAYAT,
P.O.KARUVANNUR.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

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W.P.C. NO. 31701 OF 2007

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Dated this the 29th day of October, 2007.

J U D G M E N T

This writ petition is filed seeking to permit the petitioner to file a petition for extension of time fixed in Ext.P1 for depositing the cost and pass appropriate orders. CMA 53/05 was filed against an order for setting aside an exparte decree. The appellate court allowed it subject to a payment of Rs.1,500/- as costs to the respondent on or before 27.11.06. Now, the present writ petition is filed seeking a direction to the Subordinate Judge to accept an application for extension of time for making the payment.

2. At the out set it has to be stated that when a conditional order is passed it will become operative. It is true there is no specific word in the order that it will stand dismissed on non-payment of costs. But the appeal is allowed only subject to the payment of Rs.1,500/-. Here the delay is not one or two months. It is more than an year and

therefore the order has become operative. In such a situation permission cannot be granted to file an application for extension of time, especially when it is totally out of time. Therefore, this writ petition is dismissed but it is made clear that it will not prevent the writ petitioner from challenging the order in the CMA in accordance with law.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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